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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/736,908	12/14/2000	Kaushal Kurapati	US000387	8381

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EXAMINER

SALCE, JASON P

ART UNIT PAPER NUMBER

2614

DATE MAILED: 06/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/736,908	Applicant(s) KURAPATI, KAUSHAL	
	Examiner Jason P. Salce	Art Unit 2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's arguments filed 1/10/2005 regarding the 35 USC 101 rejection has been fully considered but they are not persuasive.
2. Applicant notes that the examiner's position is that the claims read on the mental steps of calculating a score that can be performed with pencil and paper in one's head and that the abstract idea is not technologically embodied. The examiner further notes section 2106 IV.B2(c) of the MPEP for a non-statutory process consisting solely of mathematical operations without practical application in the technological arts or simply manipulating abstract ideas without practical application in the technological arts.

Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1-10 are rejected under 35 U.S.C. 101, the claims are directed to non-statutory subject matter.

Claims 1-10 are directed to an abstract idea that is not technologically embodied as being performed on a computer (see MPEP 2106 IV.B1 (b) and (c)). The claims read on the mental steps of calculating a score that can be performed with pencil and paper or in ones head (see MPEP 2106 IV.B1(c)).

To expedite a complete examination of the instant application the claims rejected under 35 U.S.C. 101 (nonstatutory) above are further rejected as set forth below in anticipation of applicant amending these claims to place them within the four statutory categories of invention.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-22 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Herz et al. (U.S. Patent No. 5,758,257) in further view of Rauch et al. (U.S. Patent No. 5,758,257).

Referring to claim 1, Herz discloses obtaining a list of one or more available items (see Column 24, Lines 66-67 and Column 25, Lines 1-2 for downloading a list of programs and Column 21, Lines 15-29 for a sample content profile).

Herz also discloses obtaining a recommendation score, R, for said one or more available items (see Column 25, Lines 7-15 for the set-top box containing preference data in a customer profile and Column 20, Lines 55-65 for a sample customer profile, which provides more than one recommendation score).

Herz also discloses calculating an adjustment, A, to said recommendation score, R (one of the scores in the user's customer profile), based on a consistency with which

an item was selected by a user relative to the number of times the item was offered (see Figure 3 and Column 26, Lines 51-60 for adjusting the customer profile using a passive monitoring feature (see description below)). Also note Column 14, Lines 4-7, Column 30, Lines 48-67 and Column 31, Lines 1-14 for how the calculated adjustment is made by passive updating of the customer profile. Note that the passive updating of the customer profile consists of adjusting a customer profile to predict the movies he or she watched (see Column 31, Lines 6-8), therefore the adjustment (values in updated customer profile) calculated for the recommendation scores (values in initial customer profile) is based on the consistency with which an item was selected by a user relative to the number of times the item was offered (user selected the movie for viewing (see Column 33, Lines 18-20)).

Herz also discloses generating a combined recommendation score, C, based on said recommendation score, R, and said adjustment, A (see Column 27, Lines 4-6 for recalculating the agreement matrix once the customer profile is adjusted).

Although Herz discloses calculating the adjustment based on a consistency, Herz fails to disclose that the consistency is calculated using a ration of an item being selected by a user relative to the number of times the item was offered.

Rauch discloses selecting a topic from a plurality of topics and incrementing a counter that tracks how often a topic is selected (see Column 11, Line 55 through Column 12, Line 14). Once the counter has been incremented the topics are ranked in a list, where the mostly frequently displayed topic is ranked at the top and the least frequently displayed topic is displayed last (Column 12, Lines 15-20). The examiner

notes that since the list is reordered based on the frequency of a topic selection, the system would inherently have to determine a ratio of the number of times a topic is selected and the number of times the a topic was offered in order to determine the rank in the list. For example, if a user selects sports 9 times out of 10 offerings and selects romance 1 time out of 10 offerings, then sports is ranked higher than romance. Therefore, no ranking could take place without such a determination.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the consistency calculation method, as taught by Herz, using the ratio calculation method, as taught by Raunch, for the purpose of providing a user with efficient selection of television programs to view and record (see Column 4, Lines 21-24 of Raunch).

Referring to claim 2, Herz discloses that the list of one or more items are programs obtained from an electronic program guide (see Column 24, Lines 66-67 and Column 25, Lines 1-2 for the content profile containing electronic program guide information).

Referring to claim 3, Herz discloses that recommendation score, R, is provided by an explicit program recommender (see Column 12, Lines 11-18 for the user explicitly defining a user profile).

Referring to claim 4, Herz discloses that recommendation score, R, is provided by an implicit program recommender (see Column 11, Lines 63-66 for implicitly (based on what the user watches) defining a user profile).

Referring to claim 5, Herz discloses that the recommendation score, R , is defined as a weighted average of individual ratings of program features (see Column 13, Lines 45-49 for providing a customer profile using the average weights of other customers in order to provide a weighted average value in a customer profile). Note that the average weights are only provided for the case where a profile is implicitly defined, therefore the individual (each customer's) ratings of program features (location, demographics, what a customer watches) are averaged with other customers to provide the customer profile (which holds multiple recommendation scores) (see Column 11, Lines 26-29 and Lines 65-66).

Referring to claim 6, Herz discloses presenting the combined recommendation score, C , for each of said one or more programs to a user (see Column 45, Lines 50-55 for displaying a user's customer profile and the ability to modify the customer profile if needed). Also note Column 45, Lines 56-67 and Column 46, Lines 1-18 for further discussion of the user interfaced used to view and modify a customer profile (recommendation scores) and agreement matrix values (combined scores).

Referring to claim 7, Herz discloses that the adjustment to said recommendation score, R , does not exceed a predefined value (see Column 19, Lines 53-63 for the variable ac (level of agreement between two profiles) calculated in the agreement matrix will not exceed 1). The examiner notes that 1 is the highest level of agreement when calculating the agreement matrix, therefore the adjusted values cannot exceed the predetermined value of 1 (see Column 21, Lines 35-63 for calculating the adjustment, A ,

to recommendation scores, R, and the combined scores, C, and that all of the calculated values do not exceed 1).

Referring to claims 8-9, see the rejection of claim 1.

Referring to claim 10, see the rejection of claim 2.

Referring to claim 11, see the rejection of claim 1 and note that Herz discloses a memory for storing computer readable code and a processor operatively coupled to the memory (see elements 1006 and 1012 in Figure 10).

Referring to claims 12-17, see the rejection of claims 2-7, respectively.

Referring to claims 18-19, see the rejection of claim 11.

Referring to claim 20, see the rejection of claim 12.

Referring to claims 21-22, see the rejection of claim 11.

Conclusion

5. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (703) 305-1824. The examiner can normally be reached on M-Th 8am-6pm (every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on (703) 305-4755. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jason P Salce
Patent Examiner
Art Unit 2611

June 3, 2005


JOHN MILLER
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